

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY G. HAMPTON, JR.,

Plaintiff,

v.

CARRILLO, et al.,

Defendant.

No. 2:23-cv-1056 TLN AC P

ORDER

Plaintiff is a state prisoner proceeding pro se. By order and findings and recommendations filed April 8, 2024, the undersigned granted plaintiff's request to proceed in forma pauperis, directed the collection of fees from plaintiff's prison trust account, and recommended that this action be dismissed as duplicative of the earlier filed Hampton v. Alkire (Hampton I), No. 2:22-cv-1418 DJC DMC (E.D. Cal.). ECF Nos. 6, 7. Plaintiff has now filed objections to the findings and recommendations in which he states that it was not his intention to initiate a second action and be charged a second filing fee. ECF No. 9. He requests that the court dismiss one of the complaints and proceed on whichever complaint has been accepted and "is ready to move forward." Id. The objections will therefore be construed as a request to voluntarily dismiss this case and cease collection of the filing fee.¹ Pursuant to Federal Rule of

¹ Hampton I has been screened, found to state a claim for relief, and served on defendants, (continued)

Civil Procedure 41(a), plaintiff's request shall be honored.

Accordingly, IT IS HEREBY ORDERED that:

1. The April 8, 2024 findings and recommendations (ECF No. 6) are WITHDRAWN.

2. The April 8, 2024 order directing the CDCR to collect the filing fee from plaintiff's prisoner account (ECF No. 7) is VACATED and the CDCR shall cease collecting fees from plaintiff's prison trust account related to this case.

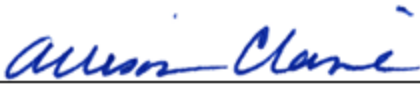
3. The Clerk of the Court is directed to refund to plaintiff any amounts already received for payment of the filing fee in this case.

4. This action is voluntarily DISMISSED without prejudice. See Fed. R. Civ. P. 41(a).

5. The Clerk of the Court is directed to serve a copy of this order on the Director, California Department of Corrections and Rehabilitation, 1515 S Street, Sacramento, California 95814.

6. The Clerk of the Court is directed to serve a copy of this order on the Financial Department of the court.

DATED: May 20, 2024


ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

though the court notes that there is currently a motion to dismiss pending to which plaintiff has yet to respond.